



# OLR RESEARCH REPORT

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## **MANDATORY REPORTING OF BLIND PATIENTS**

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You asked about state laws penalizing doctors for failing to report the names of blind patients to the state registry of the blind or a similar entity, the rationale for establishing such penalties, and whether such reporting requirements comply with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

This report addresses requirements that doctors report patients to commissions for the blind or similar agencies, and does not address reporting requirements regarding driving restrictions for visually impaired patients.

### **SUMMARY**

Connecticut law requires optometrists and physicians to report the names and certain other information concerning blind and visually impaired patients to the Department of Rehabilitation Services, but the law does not provide a penalty for failure to report ([CGS § 10-305](#)). Several other states also require doctors, optometrists, or certain other professionals to report the names of blind patients to the state agency for the blind or a similar entity. However, we found laws in only two states (Indiana and Massachusetts) penalizing noncompliance with such reporting requirements.

Establishing a penalty for failure to report might increase compliance rates. This could result in a greater number of state residents with blindness receiving needed services, as the purpose of these reporting requirements is to identify residents who could benefit from vocational services and other programs.

On the other hand, it might be hard to enforce such a penalty. It might be difficult to ascertain which doctors failed to comply. The discovery of noncompliance also might occur long after the doctor had last seen the patient, further complicating the enforcement process.

It does not appear that HIPAA prohibits states from requiring doctors to report on blind patients to appropriate state agencies. HIPAA's "Privacy Rule" protects individually identifiable health information by limiting the circumstances under which covered entities (including physicians and other health care providers) can use or disclose such information. However, there are certain exceptions to the Privacy Rule, including situations where the use or disclosure of such information is required by law (45 C.F.R. § 164.502). Thus, if a statute requires a health care provider to report information to the state, the provider would not violate HIPAA by complying with that statute. More information about HIPAA's privacy rule is available on the federal Department of Health and Human Services website: <http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/index.html>.

## **REQUIREMENT TO REPORT BLIND PATIENTS**

Connecticut law requires optometrists and physicians to report the names and specified other information concerning blind and visually impaired patients to the Department of Rehabilitation Services within 30 days of treating them. The report must also include the patient's address, Social Security number, date of birth, date of diagnosis of blindness, and degree of vision. The reports are not open to public inspection ([CGS § 10-305](#)). The law does not provide a penalty for failure to report.

Many states have similar reporting requirements. Some details differ across these states, such as the professionals required to report and the time within which they must report. Nearby states with similar reporting requirements include Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, and Rhode Island.

Some states only require reporting with the patient's consent, or allow patients to opt out of the reporting of their information. For example, Maine's law provides that the report may not be made if the patient so requests (26 Me. Rev. Stat. Ann. § 1418-E). New Hampshire's law provides that the report is required only with the patient's permission (N.H. Rev. Stat. § 329:20-a). Examples of other states with provisions on patient consent include Idaho, Kansas, and Minnesota.

Federal regulations require states to follow guidelines to ensure that all personal information they receive for vocational rehabilitation services (such as services for the blind) is used only for purposes directly connected with such programs and services (34 C.F.R. § 361.38(b)).

### ***Penalties for Noncompliance***

We found laws in only two states penalizing noncompliance with such reporting laws: Indiana and Massachusetts. Indiana requires physicians and optometrists to report to the Blind and Visually Impaired Services Program, within 10 days of diagnosing a patient as (1) blind or (2) visually impaired to a degree that interferes with functioning in school, employment, or other daily living activities. Failure to report is a class C infraction (punishable by a fine of up to \$500) (Ind. Code §§ 12-12-9-1 and 12-12-9-7).

Massachusetts requires a physician or optometrist, or the superintendent of the institution where the exam took place, to report within 30 days to the Commission on the Blind on patients who are blind. Failure to do so is punishable by a \$100 to \$500 fine (Mass. Gen. Laws Ann. Ch 6, § 136).

We contacted two national organizations about whether states penalize non-compliance with similar reporting requirements. If we receive information about other states that do so, we will update this report and forward the information to you.

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